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Listing Broker (Co.) N/A (N/A) By N/A (N/A)
Selling Broker (Co.) N/A (N/A) By N/A (N/A)
office code individual code

PURCHASE AGREEMENT (UNIMPROVED PROPERTY)

1 Date: October 14, 2010

2
3 1. **BUYER:** City of Westfield, Indiana or its Assigns ("Buyer")
4 agrees to buy the following property from the owner ("Seller") for the consideration and subject to the following
5 terms, provisions, and conditions:

6
7 2. **PROPERTY:** The property ("Property") is known as a part of Hamilton County Parcel Number: 08-05-25-00-00-057.000
8 in Washington Township, Hamilton County, Westfield
9 Indiana, 46074 (zip code), legally described as: identified as the "Real Estate" on Exhibit A.

10 approximately 74.24 acres +/-, minus that portion of the parcel that was a part of the former
11 Monon Railroad right-of-way and any land east of the former railroad right-of-way.

12 3. **PRICE:** Buyer will pay the total purchase price of \$ See Exhibit B for the Property. If Buyer obtains an
13 appraisal of the Property, this Agreement is contingent upon the Property appraising at no less than the agreed
14 upon purchase price.

15
16 4. **EARNEST MONEY:** Buyer submits \$ One Dollar as earnest money which shall be applied to the
17 purchase price. The listing broker shall deposit earnest money received into its escrow account within two (2)
18 banking days of acceptance of this Agreement and hold it until time of closing the transaction or termination of this
19 Agreement. If Buyer fails for any reason to submit earnest money, Seller may terminate this Agreement.
20 Earnest money shall be returned promptly in the event this offer is not accepted. If this offer is accepted and Buyer
21 fails or refuses to close the transaction, without legal cause, the earnest money shall be retained by Seller for
22 damages the Seller has or will incur, and Seller retains all rights to seek other legal and equitable remedies. The
23 Broker holding any earnest money is absolved from any responsibility to make payment to the Seller or Buyer
24 unless the parties enter into a Mutual Release or a Court issues an Order for payment, except as permitted in 876
25 IAC 1-1-23 (release of earnest money). Upon notification that Buyer or Seller intends not to perform, Broker holding
26 the earnest money may release the earnest money as provided in this Agreement. If no provision is made in this
27 Agreement, Broker may send to Buyer and Seller notice of the disbursement by certified mail. If neither Buyer
28 nor Seller enters into a mutual release or initiates litigation within sixty (60) days of the mailing date of the certified
29 letter, Broker may release the earnest money to the party identified in the certified letter. Buyer and Seller agree to
30 hold the Broker harmless from any liability, including attorney's fees and costs, for good faith disbursement of
31 earnest money in accordance with this Agreement and licensing regulations.

32
33 5. **METHOD OF PAYMENT:** (Check appropriate paragraph letter)

34 ☐ A. **CASH:** The entire purchase price shall be paid in cash and no financing is required.

35
36 ☐ B. **NEW MORTGAGE:** Completion of this transaction shall be contingent upon the Buyer's ability to obtain a
37 ☐ Conventional ☐ Insured Conventional ☐ Other: _____ first
38 mortgage loan for _____ % of purchase price, payable in not less than _____ years, with an
39 original rate of interest not to exceed _____ % per annum and not to exceed _____ points. Buyer
40 shall pay all costs of obtaining financing, except _____
41 _____
42 _____

43
44 Any inspections and charges, which are required to be made and charged to Buyer or Seller by the lender, or
45 mortgage insurer shall be made and charged in accordance with their prevailing rules or regulations and shall
46 supersede any provisions of this Agreement.

47 ☐ C. **ASSUMPTION:** (Attach Financing Addendum)

48
49 ☐ D. **CONDITIONAL SALES CONTRACT:** (Attach Financing Addendum)

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51 ☒ E. **OTHER METHOD OF PAYMENT:** (Attach Financing Addendum) See Exhibit B

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53
54
55 6. **TIME FOR OBTAINING FINANCING:** Buyer agrees to make written application for any financing necessary to
56 complete this transaction or for approval to assume the unpaid balance of the existing mortgage within N/A
57 days after the acceptance of this Agreement and to make a diligent effort to meet the lender's requirements and to
58 obtain financing in cooperation with the Broker and Seller. No more than N/A days after acceptance of the

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(Property Address)

Agreement shall be allowed for obtaining favorable written commitment(s) or mortgage assumption approval. If a commitment or approval is not obtained within the time specified above, this Agreement shall terminate unless an extension of time for this purpose is mutually agreed to in writing.

7. **CLOSING:** The closing of the sale (the "Closing Date") shall be on or before N/A, or within 120 days after execution of Purchase Agreement, whichever is later or this Agreement shall terminate unless an extension of time is mutually agreed to in writing. The closing fee charged by the title insurance company shall be paid by ☐ Buyer ☐ Seller ☒ Shared equally ☐ Included in allowance, if provided.

Notwithstanding terms to the contrary, the Parties agree that as a condition to closing, all funds delivered to the closing agent's escrow account be in such form that the closing agent shall be able to disburse in compliance with I.C. 27-07-3.7 et. seq.. Therefore, all funds from a single source of \$10,000 or more shall be wired unconditionally to the closing agent's escrow account and all funds under \$10,000 from a single source shall be good funds as so defined by statute.

8. **POSSESSION:** The possession of the Property shall be delivered to Buyer ☒ at closing or ☐ within N/A days after closing or ☐ on or before N/A if closed. All crops planted upon the Property prior to the Closing Date, shall belong to Seller, and Seller shall have access to the Property for the purpose of harvesting crops. All other crops belong to Buyer.

A. **Maintenance of Property:** Seller shall maintain the Property in its present condition until its possession is delivered to Buyer, subject to repairs in response to any inspection. Buyer may inspect the Property prior to closing to determine whether Seller has complied with this paragraph. Seller shall remove all debris and personal property not included in the sale.

B. **Casualty Loss:** Risk of loss by damage or destruction to the Property prior to the closing shall be borne by Seller. In the event any damage or destruction is not fully repaired prior to closing, Buyer, at Buyer's option, may either (a) terminate this Agreement or (b) elect to close the transaction, in which event Seller's right to all real property insurance proceeds resulting from such damage or destruction shall be assigned in writing by Seller to Buyer.

C. **Utilities/Municipal Services:** Seller shall pay for all municipal services and public utility charges through the day of possession.

9. **SURVEY:** Buyer shall receive a (Check one) ☐ SURVEYOR LOCATION REPORT, which is a survey where corner markers are not set; ☒ BOUNDARY SURVEY, which is a survey where corner markers of the Property are set prior to closing; ☐ WAIVED, no survey unless required by lender; at (Check one) ☒ Buyer's expense ☐ Seller's expense ☐ Shared equally ☐ Included in allowance, if provided. The survey shall (1) be received prior to closing and certified as of a current date, (2) be reasonably satisfactory to Buyer, (3) show the location of all improvements and easements, and (4) show the flood zone designation of the Property.

10. **FLOOD AREA/OTHER:** Buyer ☐ may ☒ may not terminate this Agreement if the Property requires flood insurance. Buyer ☐ may ☒ may not terminate this Agreement if the Property is subject to building or use limitations by reason of the location, which materially interfere with Buyer's intended use of the Property.

11. **INSPECTIONS:** (Check paragraph letter A or B)

Buyer has been made aware that independent inspections disclosing the condition of the property are available and has been afforded the opportunity to require such inspections as a condition of this Agreement.

☐ A. **BUYER WAIVES THE RIGHT TO HAVE INDEPENDENT INSPECTIONS**

Buyer WAIVES inspections and relies upon the condition of the Property based upon Buyer's own examination and releases the Seller, the Listing and Selling Brokers and all salespersons associated with Brokers from any and all liability relating to any defect or deficiency affecting the Property, which release shall survive the closing. Required FHA/VA or lender inspections are not included in this waiver.

☒ B. **BUYER RESERVES THE RIGHT TO HAVE INDEPENDENT INSPECTIONS (including Lead-Based Paint)**

Buyer reserves the right to have independent inspections in addition to any inspection required by FHA, VA, or Buyer's lender(s). All inspections are at Buyer's expense (unless noted otherwise or required by lender) by licensed independent inspectors or qualified independent contractors selected by Buyer within the following time periods.

INSPECTION/RESPONSE PERIOD: Buyer shall order all independent inspections immediately after acceptance of the Purchase Agreement. Buyer shall have 60 days beginning the day following the date

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of acceptance of the Purchase Agreement to respond to the inspection report(s) in writing to Seller (see "Buyer's Inspection Response").

If the Buyer does not comply with any Inspection/Response Period or make a written objection to any problem revealed in a report within the applicable Inspection/Response Period, the Property shall be deemed to be acceptable. If one party fails to respond or request in writing an extension of time to respond to the other party's independent inspection response, then that inspection response is accepted. A timely request for extension is not an acceptance of the inspection response, whether or not granted. A REASONABLE TIME PERIOD TO RESPOND IS REQUIRED TO PREVENT MISUSE OF THIS ACCEPTANCE PROVISION. Factors considered in determining reasonable time periods include, but are not limited to, availability of responding party to respond, type and expense of repairs requested and need of responding party to obtain additional opinions to formulate a response.

If the Buyer reasonably believes that the Inspection Report reveals a MAJOR DEFECT with the Property and the Seller is unable or unwilling to remedy the defect to the Buyer's reasonable satisfaction before closing (or at a time otherwise agreed to by the parties), then Buyer may terminate this Agreement or waive such defect and the transaction shall proceed toward closing. Under Indiana law, "Defect" means a condition that would have a significant adverse effect on the value of the Property, that would significantly impair the health or safety of future occupants of the Property, or that if not repaired, removed, or replaced would significantly shorten or adversely affect the expected normal life of the premises. BUYER AGREES THAT ANY PROPERTY DEFECT PREVIOUSLY DISCLOSED BY SELLER, OR ROUTINE MAINTENANCE AND MINOR REPAIR ITEMS MENTIONED IN ANY REPORT, SHALL NOT BE A BASIS FOR TERMINATION OF THIS AGREEMENT. Inspections will include Phase I Environmental.

12. **TITLE APPROVAL:** Prior to closing, Buyer shall be furnished with ☒ a title insurance commitment for the most current and comprehensive ALTA Owner's Title Insurance Policy available in the amount of the purchase price or ☐ an abstract of title continued to date, showing marketable title to Property in Seller's name. Seller must convey title free and clear of any encumbrances and title defects, with the exception of any mortgage assumed by Buyer and any restrictions or easements of record not materially interfering with Buyer's intended use of the Property. A title company, at Buyer's request, can provide information about availability of various additional title insurance coverages and endorsements and the associated costs.

Owner's Policy to be paid by ☒ Buyer ☐ Seller ☐ Shared equally ☐ Included in allowance, if provided.

Lender's Policy, if applicable, to be paid by ☐ Buyer ☐ Seller ☐ Shared equally ☐ Included in allowance, if provided. ☐ Other N/A

The parties agree that ☐ Seller ☒ Buyer will select a title insurance company to issue a title insurance policy and will order the commitment ☐ Immediately or ☒ other: within 60 days of execution of Purchase Agreement

Pursuant to Federal and State law, Seller cannot make Seller's selection of a title insurance provider a condition of this Agreement.

Seller agrees to pay the cost of obtaining all other documents necessary to perfect title (including the cost of the deed and vendor's affidavit), so that marketable title can be conveyed.

13. **TAXES: (Check paragraph A, B or C)**

☐ A. Buyer will assume and pay all taxes on the Property beginning with the taxes due and payable on _____, and all taxes due thereafter. At or before closing, Seller shall pay all taxes for the Property payable before that date.

☒ B. All taxes that have accrued for any prior calendar year that remain unpaid shall be paid by Seller either to the County Treasurer and/or the Buyer in the form of a credit at closing. All taxes that have accrued for the current calendar year shall be prorated on a calendar-year basis as of the day immediately prior to the Closing Date.

For purposes of paragraph A and B: For the purpose of determining the credit amount for accrued but unpaid taxes, taxes shall be assumed to be the same as the most recent year when taxes were billed based upon *certified* tax rates. This shall be a final settlement.

186 14. **PRORATIONS AND SPECIAL ASSESSMENTS:** Insurance, if assigned to Buyer, interest on any debt assumed or
187 taken subject to, any rents, all other income and ordinary operating expenses of the Property, including but not
188 limited to, public utility charges, shall be prorated as of the day immediately prior to the Closing Date. Seller shall
189 pay any special assessments applicable to the Property for municipal improvements previously made to benefit the
190 Property. Seller warrants that Seller has no knowledge of any planned improvements which may result in
191 assessments and that no governmental or private agency has served notice requiring repairs, alterations or
192 corrections of any existing conditions. Public or municipal improvements which are not completed as of the date
193 above but which will result in a lien or charge shall be paid by Buyer. Buyer will assume and pay all special
194 assessments for municipal improvements completed after the date of this Agreement.
195

196 15. **TIME:** Time is of the essence. Time periods specified in this Agreement and any subsequent Addenda to the
197 Purchase Agreement are calendar days and shall expire at 11:59 PM of the date stated unless the parties agree in
198 writing to a different date and/or time.
199

200 **Note: Seller and Buyer have the right to withdraw any offer/counter offer prior to written acceptance and**
201 **delivery of such offer/counter offer.**
202

203 16. **COMMUNITY ASSOCIATION:** Documents for a mandatory membership association shall be delivered by the
204 Seller to Buyer within N/A days after acceptance of this Agreement. If the Buyer does not make a written
205 response to the documents within N/A days after receipt, the documents shall be deemed acceptable. In the
206 event the Buyer does not accept the provisions in the documents and the provisions cannot be waived, this
207 Agreement may be terminated by the Buyer and the earnest money deposit shall be refunded to Buyer promptly.
208 Any approval of sale required by the Association shall be obtained by the Seller, in writing, within N/A days
209 after Buyer's approval of the documents.
210

211 **Buyer acknowledges that in every neighborhood there are conditions which others may find objectionable.**
212 **Buyer shall therefore be responsible to become fully acquainted with neighborhood and other off-site**
213 **conditions that could affect the Property.**
214

215 17. **PROTECTIVE RESTRICTIONS, COVENANTS, LIMITATIONS RECORDED PLATS AND EASEMENTS:** If the
216 Property is subject to and affected by certain recorded protective restrictions, covenants, limitations and easements
217 ("Covenants"), Seller shall furnish to Buyer a copy of the Covenants by the time evidence of title is provided. If the
218 Property is in a recorded subdivision, then Seller shall furnish to Buyer a copy of the recorded plat, amendments
219 and replats.
220

221 18. **ATTORNEY'S FEES:** Any party to this Agreement who is the prevailing party in any legal or equitable proceeding
222 against any other party brought under or with relation to the Agreement or transaction shall be additionally entitled
223 to recover court costs and reasonable attorney's fees from the non-prevailing party.
224

225 19. **ENVIRONMENTAL REPRESENTATIONS OF SELLER.** To Seller's best knowledge, based on an inquiry of those
226 persons directly responsible for gathering the information, there does not currently exist any actual or potential
227 contamination of the soil, subsoil, ground water, or any other portion of the Property by any hazardous or toxic
228 substance or their constituents, or any underground tanks on the Property other than for the use of motor fuel or
229 heating oil for use and consumption of Seller on the premises, and no environmental filings have been made
230 concerning the Property with any governmental agency.
231

232 To Seller's best knowledge, based on an inquiry of those persons directly responsible for gathering information,
233 Seller has complied at all times with all applicable federal, state and local environmental laws and regulations,
234 including without limitation, the Indiana Responsible Property Transfer Law, as amended, the Comprehensive
235 Environmental Response, Compensation and Liability Act, as amended, the Resource Conservation and Recovery
236 Act, as amended, the Toxic Substance Control Act, Superfund Amendments and Reauthorization Act of 1986, any
237 of the regulations under them, and any other federal statute and any state statute or municipal ordinance creating
238 liability for the treatment, storage, disposal, arranging, or the existence on the Property of any hazardous or toxic
239 substance, including their constituents. If required, Seller shall timely furnish to Buyer an environmental disclosure
240 statement complying with the Indiana Responsible Property Transfer Law.
241

242 **20. MISCELLANEOUS:**
243

244 A. Unless otherwise provided, any prorations for rent, taxes, insurance, damage deposits, association
245 dues/assessments, or any other items shall be computed as of the day immediately prior to the Closing Date.
246

247 B. Underground mining has occurred in Indiana, and Buyers are advised of the availability of subsidence
248 insurance.

- 249 C. The Indiana Sheriff's Sex Offender Registry exists (www.indianasheriffs.org) to inform the public about the
250 identity, location and appearance of sex offenders residing within Indiana. Broker is not responsible for
251 providing or verifying this information.
- 252 D. Conveyance of this Property shall be by general Warranty Deed, or by N/A, subject to taxes,
253 easements, restrictive covenants and encumbrances of record, unless otherwise agreed.
- 254 E. Seller represents and warrants that Seller is not a "foreign person" (individual or entity) and, therefore, is not
255 subject to the Foreign Investment in Real Property Tax Act.
- 256 F. Any notice required or permitted to be delivered, shall be deemed received when personally delivered,
257 transmitted electronically or digitally or sent by express courier or United States mail, postage prepaid,
258 certified and return receipt requested, addressed to Seller or Buyer or the designated agent of either party.
- 259 G. This Agreement shall be construed under and in accordance with the laws of the State of Indiana and is
260 binding upon the parties' respective heirs, executors, administrators, legal representatives, successors, and
261 assigns.
- 262 H. In case any provision contained in this Agreement is held invalid, illegal, or unenforceable in any respect, the
263 invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement.
- 264 I. This Agreement constitutes the sole and only agreement of the parties and supersedes any prior
265 understandings or written or oral agreements between the parties' respecting the transaction and cannot be
266 changed except by their written consent.
- 267 J. All rights, duties and obligations of the parties shall survive the passing of title to, or an interest in, the
268 Property.
- 269 K. Broker(s) may refer Buyer or Seller to other professionals, service providers or product vendors, including
270 lenders, loan brokers, title insurers, escrow companies, inspectors, pest control companies, contractors and
271 home warranty companies. Broker(s) does not guarantee the performance of any service provider. Buyer and
272 Seller are free to select providers other than those referred or recommended to them by Broker(s).
- 273 L. By signing below, the parties to this transaction acknowledge receipt of a copy of this Agreement and give
274 their permission to a multiple listing service, Internet or other advertising media, if any, to publish information
275 regarding this transaction.
- 276 M. Any amounts payable by one party to the other, or by one party on behalf of the other party, shall not be owed
277 until this transaction is closed.
- 278 N. Buyer and Seller consent to receive communications from Broker(s) via telephone, U.S. mail, email and
279 facsimile at the numbers/addresses provided to Broker(s) unless Buyer and Seller notify Broker(s) in writing
280 to the contrary.
- 281 O. Buyer discloses to Seller that Buyer holds Indiana Real Estate License # N/A.
- 282 P. Where the word "Broker" appears, it shall mean "Licensee" as provided in I.C.25-34.1-10-6.8.
- 283 21. FURTHER CONDITIONS AND ZONING REQUIREMENTS (List and attach any addenda):
284 See Exhibit C
285 _____
286 _____
287 _____
288 _____
289 _____
290 _____
291 _____
292 _____
293 _____
294 _____
295 _____
296 _____
297 _____
- 298 22. ACKNOWLEDGEMENTS: Buyer and Seller acknowledge that each has received agency office policy disclosures,
299 has had agency explained and now confirms all agency relationships. Buyer and Seller further acknowledge that
300 they understand and accept agency relationships involved in this transaction. By signature below, the parties verify
301 that they understand and approve this Purchase Agreement and acknowledge receipt of a signed copy.
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(Property Address)

Exhibit B

1. **Purchase Price.** Buyer will pay Seller a purchase price for the Property (the "Purchase Price") in accordance with the following schedule:
 - a. **Years 1 through 3.** The purchase price for acreage paid for within the first three (3) years following the Closing Date shall be Twenty-Seven Thousand Five Hundred Dollars (\$27,500.00) per acre plus any additional amount as described in paragraph "4" in this Exhibit B (the "Additional Amount").
 - b. **Year 4.** The purchase price for acreage paid for within the fourth year following the Closing Date shall be Thirty Thousand Dollars (\$30,000.00) per acre plus any Additional Amount.
 - c. **Year 5.** The purchase price for acreage paid for within the fifth year following the Closing Date shall be Thirty-Two Thousand Five Hundred Dollars (\$32,500.00) per acre plus any Additional Amount.
 - d. **Year 6.** The purchase price for acreage paid for within the sixth year following the Closing Date shall be Thirty-Five Thousand Dollars (\$35,000.00) per acre plus any Additional Amount.
 - e. **Year 7.** The purchase price for acreage paid for within the seventh year following the Closing Date shall be Thirty-Seven Thousand Five Hundred Dollars (\$37,500.00) per acre plus any Additional Amount.
2. **Payment Period.**
 - a. Buyer will pay Seller for all acreage included in the Property within seven (7) years from the Closing date (the "Payment Period").
 - b. Buyer may pay for all or a portion of the acreage included in the Property at any time during the Purchase Period.
3. **Additional Amount.** In addition to the per acre payment amounts set forth in paragraph "1" of this Exhibit B, Buyer will pay Seller an Additional Amount as set forth in the following schedule:
 - a. **Years 1 through 3.** Buyer will pay Seller Seventy-Five (\$75.00) per acre on each May 1st and each November 1st following the Closing Date, for each acre that has not been paid for at the time such Additional Amount is due.

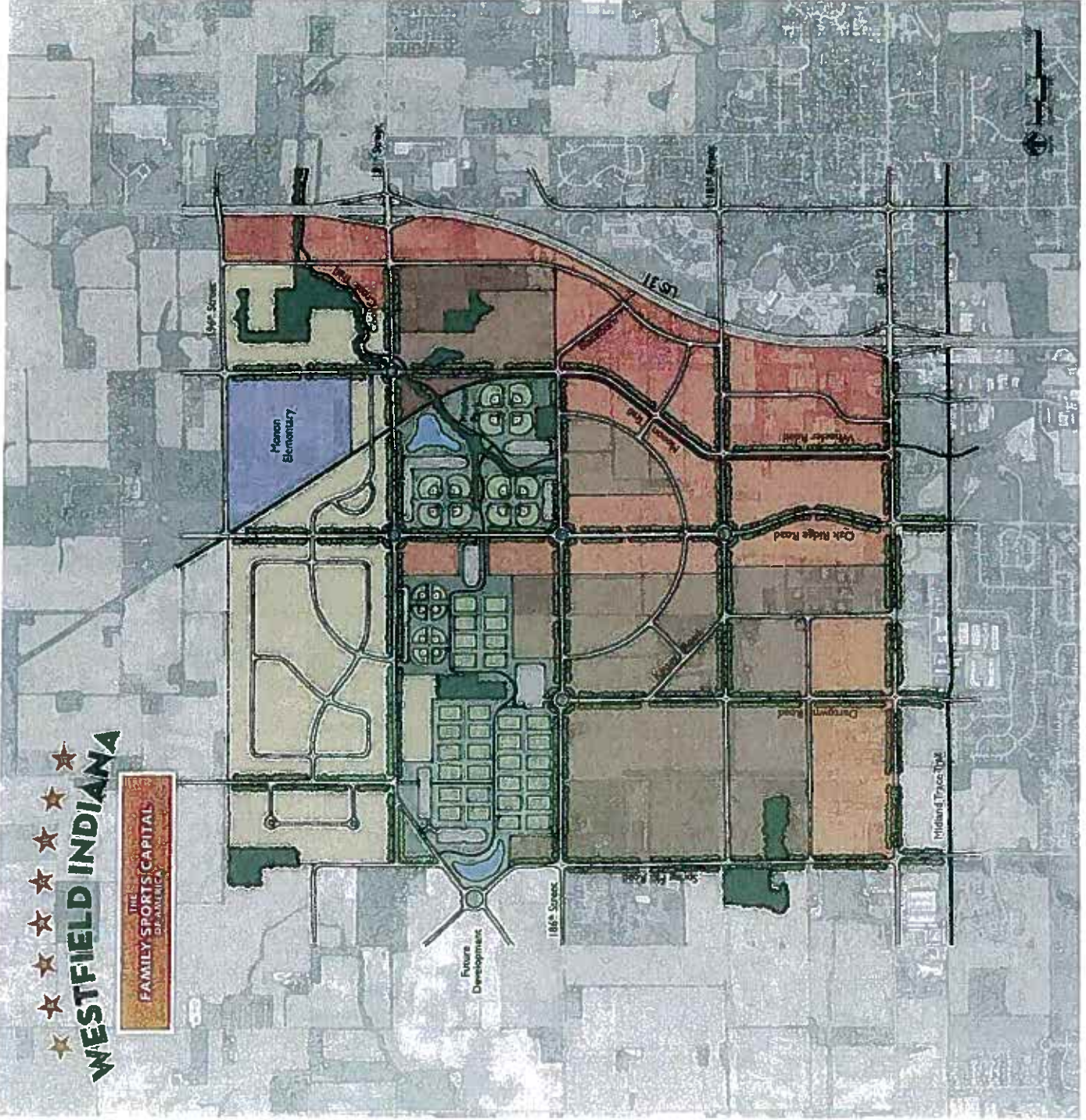
b. Years 4 through 7.

- i. Buyer will pay Seller an amount equal to one-half of the fair market value of annual farm rent on each May 1st and each November 1st following the Closing Date, for each acre that has not been paid for at the time such Additional Amount is due.
 - ii. Buyer and Seller shall mutually determine and agree upon in good faith the fair market value of farm rent.
 - iii. The fair market value of farm rent shall be established each year on or before the May 1st payment becomes due.
 - iv. In the event Buyer and Seller cannot reach agreement on the fair market value of farm rent after good faith efforts have been exhausted, Buyer and Seller hereby consent to arbitration to establish the fair market value of farm rent.
4. All purchase prices set forth herein are subject to the City being able to obtain adequate appraisals to support the land purchase in accordance with Indiana laws regulating public acquisition of real property.

Exhibit C

Further conditions and zoning requirements include the following:

1. Purchase is subject to City obtaining adequate appraisals at the City's expense to support purchase of the Property in accordance with Indiana law regulating public acquisition of real property within one hundred and twenty (120) days from the execution of this Purchase Agreement.
2. Purchase is subject to the Westfield City Council authorizing the purchase of the "Real Estate" and adopting an amendment to the Westfield-Washington Township Comprehensive Plan that would substantially accommodate the Family Sports Capital of America Plan as shown in Exhibit D within one hundred and twenty (120) days from the execution of this Purchase Agreement.



Proposed Land Use

- Residential
- School
- Park
- Low Intensity Mixed-Use
- High Intensity Commercial
- Roads
- Trail / Greenway
- Street Trees
- Regional Detention Areas
- Preserved Wood Lots
- Round-a-bout
- Athletic Fields
- Parking

Exhibit D